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relied upon a moral sanction now confess to the need of a physical sanction as a last resort. The two closing chapters discuss the preventive and constructive activities to be performed by the League of Nations.

The death of Dr. Lammasch on January 7, 1920, was a loss which the new Republic of Austria could ill afford to suffer. He had been technical delegate of his country at both of the Hague Conferences and had served as president or member of arbitration tribunals in four important cases submitted to the Hague Permanent Court. As a pacifist in the best sense he had opposed the military party which was responsible for the outbreak of the war and subsequently labored to bring about a just peace by settlement. Had his voice been heeded, his country would have been spared much of its present suffering. It is to be hoped that these final words of a noble and just man will be translated and made accessible to the English-speaking public.

C. G. FENWICK.

Bryn Mawr College.

Early Records of Gilpin County, Colorado. Edited by Thomas M. Marshall. Published by the University of Colorado, 1920. pp. 313.

The first rush of gold seekers to Colorado occurred in 1858 and 1859. In the present volume are found the records of the earliest organizations in the state and the legislation of the early mining districts. In June, 1859, the Rocky Mountain News reported "The first mass meeting ever held in the Rocky Mountains." It was at the "Gregory Diggings", attended by "between two and three thousand miners", and was addressed by Horace Greeley. A report on what they found at Gregory Diggings was prepared by a committee of three distinguished visitors, consisting of Horace Greeley, A. D. Richardson, and Henry Villard. At the mass meeting then held the miners designated boundaries of the district, prescribed rules as to the size and location of claims, and created a miners' court. At later meetings these laws were amplified. In the volume is found the legislation of some nineteen mining districts, enacted at similar public meetings of the entire population. This legislation deals chiefly with the mining industry, but criminal codes are also included. The Hawk Eye District enacted that "Any person found guilty of wilful murder shall be hanged by the neck till dead and then given to his friends if called for and if not to be decently buried, and all other crimes not enumerated in these laws shall be punished as the Court or jury of men may direct."

The Russell District devoted eight sections of its code to the organization of its Miners' Court, giving it "equity as well as law jurisdiction." Fifteen more sections stated in detail the rules of practice before the court, while other sections dealt with the "Trial and its Incidents" and with "Levy and Sale upon Execution." The volume contains much historical material of interest.

A. L. C.

Jurisprudence. By Sir John Salmond. Sixth Edition. London, Sweet & Maxwell, Ltd., 1920.

Salmond's Jurisprudence, first published in 1902, and now in its sixth edition, is an excellent example of the developed type of the analytical school of John Austin. The author is now Solicitor General of New Zealand. The first edition appeared when he was Professor of Law at the University of Adelaide. This edition contains no material changes from the prior edition except, perhaps, a more extended examination of the conception of state-territory, based upon the organization of the British Empire.

The disinclination of practicing lawyers to recognize the usefulness of jurisprudence in any form is well known. Mr. Dicey, as quoted by Professor Gray,

in his *Nature and Sources of Law,* says that "Jurisprudence is a word that stinks in the nostrils of a practicing barrister," but goes on to say, "Prejudice excited by a name which has been monopolized by pedants and impostors should not blind us to the advantage of having clear and not misty ideas on legal subjects." Professor Gray says, "Especially valuable is the negative side of analytic study. On the constructive side it may be unfruitful, but there is no better method for the puncture of windbags. . . . The task of the analytic student of the law is the task of classification and, included in this, of definition." If this is true, and we have no doubt it is, the practical utility of that method of jurisprudence styled analytic ought to be evident to and recognized by the practicing lawyer who desires to fortify the art of law by the scientific consideration of its fundamental principles. That, through the primary influence of Austin and Maine, some change has taken place in the attitude of practitioners in recent years, is evident from the successive editions of the leading textbooks which follow the methods of the analytical school. Holland's Jurisprudence has gone into twelve editions since 1880; Salmond, six since 1902, and Markby, Elements of Law, five between 1871 and 1896. Within the last few years articles upon jurisprudence in some form have appeared in increasing numbers in the law reviews. The law schools have both reflected and largely developed this attitude by introducing more or less extended courses on Legal History and Jurisprudence into the curriculum, and the study of law from the historical, comparative, and analytic points of view, in their elements at least, is fairly well established as a necessity in any adequate course in law.

Salmond says that the aim of the abstract study (analytical jurisprudence) is to supply that theoretical foundation which the science of law demands, but of which the art of law is careless, and therefore defines jurisprudence as treated by him as "the science of the first principles of the civil law." What keeps the science, so understood, upon the ground, is that it is based upon and takes its vitality from actual, concrete law as in fact administered at the given time. It follows that the subject-matter in treatises of this class is substantially the same. The conception of law, the state, sovereignty, administration of justice, sources of law, some reference to legal history, legal rights, liabilities, property, possession, etc.--all these Salmond has treated quite clearly and somewhat more extensively than the authors referred to.

It is quite impossible to give an adequate view of the author's method and conclusions in a brief notice. A single example must suffice. In a section entitled "Law logically subsequent to the administration of Justice," after having defined law as "the body of principles observed and acted on by the state in the administration of justice," the author states certain conclusions as follows: "The primary purpose of this function [the administration of justice] of the state is that which its name implies—to maintain right, to uphold justice, to protect rights, to redress wrongs. Law is secondary and unessential. It consists of the fixed principles in accordance with which this function is exercised. It consists of the preëstablished and authoritative rules which judges apply in the administration of justice, to the exclusion of their own free will and discretion. For good and sufficient reasons the courts which administer justice are constrained to walk in predetermined paths. They are not at liberty to do that which seems right and just in their own eyes. They are bound hand and foot in the bonds of an authoritative creed which they must accept and act on without demur. This creed of the courts of justice constitutes the law, and so far as it excludes all right of private judgment. The law is the wisdom and justice of the organized commonwealth, formulated for the authoritative direction of those to whom the commonwealth has delegated its judicial functions. . . . It is essential to a clear understanding of this matter to remember that the administration of justice is perfectly

possible without law at all. A tribunal in which the judge does that which he deems just in a particular case, regardless of general principles, may not be an efficient or trustworthy tribunal, but is a perfectly possible one. It is a court of justice which is not also a court of law. . . . Law is a gradual growth from small beginnings. The development of a legal system consists in the progressive substitution of rigid preëstablished principles for individual judgment, and to a very large extent these principles grow up spontaneously within the tribunals themselves. That great aggregate of rules which constitutes a developed legal system is not a condition precedent of the administration of justice but a product of it. Gradually, from various sources—precedent, custom, statute—there is collected a body of fixed principles which the courts apply to the exclusion of their private judgment. The question at issue in the administration of justice more and more ceases to be 'what is the right and justice of this case' and more and more assumes the alternative form, 'what is the general principle already established and accepted as applicable to such a case as this.' Justice becomes increasingly justice according to law, and courts of justice become increasingly courts of law."

The book is a valuable addition to the not over extensive group of books in English devoted to analytical jurisprudence and, though coming from the other side of the world, there is little, if anything, in it that makes it less valuable wherever the English law prevails.

E. B. G.

Textbook of Aerial Laws. By Henry Woodhouse. New York, Frederick A. Stokes Company, 1920. pp. 171.

When an authority on aviation, supported by eight lawyers in advisory capacity, purports to "make available a complete review of Aerial Jurisprudence," an imaginative student of things aerial or legal may be pardoned great expectations. Your swivel-chair becomes a Pegasus in clouds of theory, Spad-mounted speed cops lurk behind their fleecy ambushes, and colored kite balloons direct your flight of imagination.

In reality the subject is merely an application of familiar principles to a new set of facts. Mr. Woodhouse has reviewed actual aerial legislation, without significant comment. The regulations adopted by the Aeronautic Commission of the Peace Conference, the only aerial law as such, are printed in full, as well as the 1919 British Air Navigation Regulations, proposed legislation in France and the United States, the New York and Massachusetts statutes, and a rather conglomerate mass of recent war incidents, the latter illustrative of an illusory "Aerial War Code." The Constitution of the United States is given *in extenso* (including the names of the signers and the ratification majorities in the states), lest proposed aerial legislation be unconstitutional.

The remainder of the book consists of hypothetical cases that involve familiar enough legal principles and will offer none of the difficulties the author expects, when once society has decided how air-craft shall be used. For that is the whole point. It is only in the adjustment of our jurisprudence to aerial conditions that a real problem arises. Take for instance the question of state sovereignty over the air (although it was perhaps finally settled at Versailles); shall we consider an aeroplane a flying automobile upon the aerial roadways of a nation, or a flying ship upon the high seas of the air? None of the fundamental principles are suggested to us by which alone similar undecided questions may be answered. The author's only explanation of the rejection of the "Freedom of the Air" theory seems to be an objection by Great Britain that the aviators of European belligerents might fight their battles over a neutral London and the falling débris cause damage! Even a cursory reading of Dr. Harold Hazelton's or of Sir H. Erle